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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,570	07/24/2001	Roberto DeLima	RSW9-2000-0124-US1	5486

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EXAMINER

PHILLIPS, HASSAN A

ART UNIT

PAPER NUMBER

2151

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/912,570	Applicant(s) DELIMA ET AL.	
	Examiner Hassan Phillips	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/24/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The Information Disclosure Statement filed on July 24, 2001, has been received and considered by the Examiner.

Drawings

1. The Drawings filed October 19, 2001, have been received and considered by the Examiner.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 114 (see page 1, line 11), and 100, (see page 14, line 24). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are also objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 100 (see Fig. 1), 106 (see Fig. 2). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

1. The disclosure is objected to because of the following informalities: On page 16, line 1, the Examiner feels reference numeral 104 should have been used instead of 102, since the Drawings show flow proceeding back to step 104 and not step 102.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 8-12, are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Colby et al. (hereinafter Colby), U.S. Patent 6,006,264 (supplied by applicant).

3. In considering claims 1, 10, and 12, Colby teaches a method, computer readable product, and apparatus for performing load balancing of client requests among a plurality of servers (100a-c and 120a-b), the method, computer readable product, and apparatus comprising the steps of:

For each one of the plurality of servers, creating a configuration file containing parameters pertaining to the server to be applied for configuring a load balancing scheme for a plurality of servers that include the server; storing each of the configuration files in a memory accessible to a load balancer (110); reading the parameters from the configuration file for each of the servers; and configuring the load balancer to dispatch client requests to the servers based on an algorithm using the parameters, (col. 6, lines 36-67, col. 7, lines 1-19).

4. In considering claim 2, it is inherent in the teachings of Colby that files are stored on a memory local to the corresponding server. See col. 6, lines 36-67, col. 7, lines 1-19.

5. In considering claims 3 and 11, it is inherent in the teachings of Colby that each of the configuration files has a file path and name in accordance with a standard file path and naming protocol. See col. 6, lines 36-67, col. 7, lines 1-19.

6. In considering claim 4, Colby teaches the parameters comprising at least a health URL and content-based routing rules. See col. 6, lines 36-67, col. 7, lines 1-19.

7. In considering claim 5, it is inherent in the teachings of Colby that the content-based routing rules comprise a URL mask. See col. 6, lines 36-67, col. 7, lines 1-19.

8. In considering claim 8, Colby teaches the plurality of servers comprising a server farm coupled to receive client requests via the Internet. See col. 3, lines 36-45.

9. In considering claim 9, Colby teaches the configuration file being an HTML file. See col. 1, lines 59-65.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6, 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over Colby in view of the Applicants Admitted Prior Art (AAPA).

3. In considering claim 6, although Colby shows substantial features of the claimed invention, Colby fails to expressly disclose: The parameters comprising time-of-day rules.

Nevertheless, time-of-day-rules were well known in the art at the time of the present invention. This is denoted by the Applicant in the Applicant's discussion of the prior art on page 7, lines 1-13.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Colby to show the parameters comprising time-of-day rules. This would have provided the load balancer with necessary information needed to perform load balancing efficiently.

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4. In considering claim 7, although Colby shows substantial features of the claimed invention, Colby fails to expressly disclose: The parameters comprising session affinity rules.

Nevertheless, session affinity rules were well known in the art at the time of the present invention. This is denoted by the Applicant in the Applicant's discussion of the prior art on page 7, lines 14-21.

Thus, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Colby to show the parameters comprising session affinity rules. This would have provided the load balancer with necessary information needed to perform load balancing efficiently, by associating multiple client requests from a single client to a single Web site with each other.

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Scott et al., U.S. patent 6,560,717 discloses a load balancer that polls application servers for current information.


Gigliotti et al., U.S. patent 6,393,458 discloses a load balancer that queries server hosts to calculate load parameters fore each server.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (703) 308-6687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/
10/18/04


ZARNI MAUNG
PRIMARY EXAMINER